



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jestin *et al.*

Title: CIRCOVIRUS SEQUENCES
ASSOCIATED WITH PIGLET
WEIGHT LOSS DISEASE (PWD)

Appl. No.: 09/514,245

Filing Date: 02/28/2000

Examiner: A. Salimi

Art Unit: 1648

#16
Election
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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement mailed April 10, 2002. Enclosed herewith is a Petition for a two-month extension of time to extend the time to respond to July 10, 2002. Should such a request or fee be deficient or absent, please consider this paragraph such a request and authorization to charge the appropriate fee under 37 C.F.R. §1.16 to 1.18 to Account No. 19-0741.

Applicants hereby provisionally elect, with traverse, Group I, claims 1-6, 20 and 22, drawn to DNA vaccine against porcine circovirus, and a method of vaccinating, for prosecution in the subject application, with the nucleotide sequence set forth in ID NO: 25. Applicants, of course, reserve the right to file a divisional application covering the subject matter of the non-elected claims.

In the restriction requirement, the examiner further requests applicants to elect a single sequence as it applies to the elected group while stating that this requirement is not to be construed as a requirement for an election of species. Thus, it is not clear from the statement whether the examination will cover the non-elected sequences once the elected sequence is found allowable. However, to make it certain, applicants

maintain below that all the sequences involved in Group I should be examined together in this application, if the elected sequence No. 25 is found allowable.

According to MPEP § 803, if "the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Applicants contend that this is the case in the present application.

Claims of Group I involve four nucleotide sequences as set forth in SEQ ID NOs: 15, 19, 23 and 25. Among these sequences, the nucleotide sequences of SEQ ID NOs: 15 and 19 correspond respectively to the genome sequence of the strand of (+) polarity (5' to 3' orientation) and of the strand of (-) polarity (3' to 5' orientation) of the PWD circovirus of type B. That is, these sequences are complementary to each other. Therefore, the examiner's actual search needs to be conducted with respect to three nucleotide sequences only.

According to the Official Gazette dated March 21, 2000, up to ten (10) independent and distinct nucleotide sequences are allowed to be examined in a single application without restriction. However, the examiner has not shown that it will be a serious burden to examine the claims of Group I with these four nucleotide sequences. Thus, applicants sincerely believe that there is no burden on the examiner to search these nucleotide sequences together.

Accordingly, applicants respectfully request that the examiner examine all the sequences involved in claims of Group I together. Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date July 10, 2002

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